

Application No. 10/640,553  
Amendment dated November 21, 2007  
Reply to Office Action of August 21, 2007

### REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Office Action mailed on August 21, 2007, and the references cited therewith.

Claims 1 and 26 are amended, no claims are canceled or added; claims 8-18 and 22-25 were previously withdrawn; as a result, claims 1-7, 19-21, and 26 are now pending in this application.

#### §103 Rejection of the Claims

Claims 1, 2, 6, 7, 19 and 20 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 6,540,045 to Widmer et al (hereinafter "Widmer"). Applicant has amended claim 1 to more clearly recite the claimed subject matter. Insofar as the rejection applies to the claim as it is amended, Applicant respectfully traverses the rejection as follows.

Applicant respectfully submits that Widmer does not support a proper prima facie case of obviousness as Widmer, besides other things, does not describe or suggest all the elements recited in claim 1 as amended. For example, Applicant is unable to find in Widmer a method including processing outside auditory canal dimension data to generate outside mold data and creating a negative hearing aid mold using rapid prototyping having an inside surface with dimensions the same as the dimensions of the auditory canal, as provided in claim 1.

In the Office Action, it was asserted that,

Because Widmer et al, note at column 4, lines 10-18 that rapid prototyping is 'especially applicable to construe ear devices, or their shells', it would have been obvious to one of ordinary skill in the art to process outside auditory canal data to generate outside mold data and to create a negative hearing aid mold from the outside [*sic*] mold data using rapid prototyping, with the negative hearing aid mold having an inside surface which represents the outside dimensions of the auditory canal because one of ordinary skill in the art would have recognized that a thin shell of an ear

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device, if construed by Widmer et al., would effectively represent a negative mold for the hearing aid.

(Pages 2-3). Applicant traverses these assertions.

First, Applicant submits that Widmer appears to describe a method of mass producing ear devices or their shells directly from 3D digital data of the shape of an individual's particular application area for the ear device. Widmer does not appear to describe a method of making a negative ear mold, where the inside surface has dimensions the same as the dimensions of the auditory canal.

Second, Applicant submits that it would not have been obvious to one of ordinary skill in the art to recognize that a thin shell of an ear device would effectively serve as a negative mold for a hearing aid. For example, if the shell constructed as described in Widmer were used as a negative hearing aid mold, the resulting product from the mold would be equal to the size of the shell reduced by two shell-thicknesses. In other words, the resulting product from the shell, as described by Widmer, would be smaller than the shell. Since a hearing aid is designed to fit snugly in the ear canal, as evidenced by the fact that a 3D image of the, for example, ear canal, is obtained, the resulting product from the shell as described by Widmer would not fit into the ear canal as is intended in the present disclosure. In addition, one skilled in the art would not be motivated to adjust the dimensions of the shell produced as described in Widmer since Widmer does not teach, describe, or suggest producing the shell to be used as a negative mold. Rather, Widmer appears to describe producing a shell to provide an area for hearing aid components.

Based on the forgoing, reconsideration and withdrawal of the 103 rejection for independent claim 1 as well as those claims that depend therefrom is respectfully requested.

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Claims 3-5 and 26 were rejected under 35 USC § 103(a) as being unpatentable over Widmer as applied to claims 1, 2, 6, 7, 19 and 20 above, and further in view of U.S. Patent No. 7,027,642 to Rubbert et al. (hereinafter "Rubbert").

Claim 21 was rejected under 35 USC § 103(a) as being unpatentable over Widmer as applied to claims 1, 2, 6, 7, 19 and 20 above, and further in view of U.S. Patent No. 6,152,731 to Jordan et al. (hereinafter "Jordan").

Applicant respectfully traverses the rejections as follows.

Claims 3-5 and 21 are dependent on independent claim 1, which is in condition for allowance for at least the reasons stated above. That is, Widmer does not support a proper prima facie case of obviousness as Widmer, besides other things, does not describe or suggest all the elements recited in claim 1. Neither Rubbert nor Jordan cures the deficiencies of Widmer. For example, Rubbert and Jordan do not describe, teach, or suggest, independently or in combination with Widmer, creating a negative hearing aid mold using rapid prototyping having an inside surface with dimensions the same as the dimensions of the auditory canal, as provided in claim 1 as amended.

Applicant submits that independent claim 26 is also in condition for allowance for at least the reasons stated above. That is, Widmer does not support a proper prima facie case of obviousness as Widmer, besides other things, does not describe or suggest all the elements recited in claim 26. Rubbert does not cure the deficiencies of Widmer. For example, Rubbert does not describe, teach, or suggest, independently or in combination with Widmer, creating a negative hearing aid mold using rapid prototyping having an inside surface with dimensions the same as the dimensions of the auditory canal, as provided in claim 26 as amended.

As such, Applicant respectfully submits that each and every element and limitation of claims 3-5, 21, and 26 are not taught or suggested by Rubbert, Jordan, and Widmer, either individually or in combination. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103(a) rejection of dependent claims 3-5, 21, and 26.

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### CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 236-0122 to facilitate prosecution of this matter.

#### CERTIFICATE UNDER 37 C.F.R. §1.8:

The undersigned hereby certifies that this correspondence is being transmitted to the United States Patent Office facsimile number (571) 273-8300 on

November 21, 2007

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